

REMARKS

Claims 1-27 were originally filed in the present application. Claims 9, 19, 21 and 27 were subsequently cancelled without prejudice or disclaimer. Claims 1-8, 10-18 and 22-26 are currently cancelled without prejudice or disclaimer. Thus, only claim 20 is currently pending in the present application.

Applicants note that the present claim amendments do not constitute new claimed subject matter. That is, currently amended claim 20 is identical to previously-pending claim 24 after being rewritten in independent form including all of the limitations from its base claim (20) and intervening claims (22 and 23). Consequently, because the Examiner has already performed prior art searching directed towards previously-pending claim 24, no additional search is necessary, and the amendment to claim 20 should be entered. Therefore, for at least this reason, Applicant respectfully requests that the Examiner enter the claim amendments described above.

Moreover, the claim amendments presented herein are in compliance with 37 C.F.R. §1.116. That is, the amendments are either cancellations (claims 1-8, 10-18 and 22-26) or present rejected claims in better form for consideration on appeal (claim 20). Therefore, for at least this reason, Applicant respectfully requests that the Examiner enter the claim amendments described above.

Reconsideration of this application in light of the above amendments and the following remarks is requested.

Rejections under 35 U.S.C. §102

Claims 1-4, 7, 8, 10-14, 16 and 17 were rejected under 35 U.S.C. §102(b) as being anticipated by Fukuyoshi, Uchida or Izumi. However, these claims have been cancelled, thus rendering their rejection moot.

Rejections under 35 U.S.C. §103

Claims 1-3, 6-8, 11 and 18 were rejected under 35 U.S.C. §103(a) as being unpatentable over Fukuyoshi in view of Izumi. However, these claims have been cancelled, thus rendering their rejection moot.

Claims 20 and 22-26 were rejected under 35 U.S.C. §103(a) as being unpatentable over one or more combinations of Uchida, Abramovich, Fukuyoshi and AAPA. However, no such combination supports a *prima facie* case of obviousness of currently-amended claim 20, as described below.

As the PTO recognizes in MPEP § 2142:

... The Examiner bears the initial burden of factually supporting any prima facie conclusion of obviousness. If the Examiner does not produce a prima facie case, the Applicant is under no obligation to submit evidence of nonobviousness...

It is submitted that, in the present case, the Examiner cannot factually support a *prima facie* case of obviousness with regard to claim 20 because the references do not teach the claimed subject matter, even when the references are combined, as described below.

Among other elements, claim 20 requires:

- a) providing a substrate having a plurality of photo sensors located therein;
- b) forming a dielectric layer over the substrate;
- c) depositing a microlens material layer containing a polymer material over the dielectric layer, wherein the microlens layer is not integral to the dielectric layer;
- d) patterning the microlens material layer;
- e) heating the patterned microlens material layer to form a microlens layer having a plurality of microlenses each including a substantially convex portion substantially aligned over a corresponding one of the plurality of photo sensors, wherein the plurality of microlenses are separated by a plurality of gaps that each reveal a portion of the dielectric layer surface;
- f) forming a dielectric film on the microlens layer and contacting the dielectric layer surface through each of the plurality of gaps;
- g) forming a color filter over the dielectric film; and
- h) forming a protective layer over the color filter.

However, as provided in 35 U.S.C. §103, a patent may not be obtained if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Thus, when evaluating a claim for determining obviousness, all limitations of the claim must be evaluated.

In this context, none of Uchida, Fukuyoshi, Abramovich and AAPA teach the specific sequence of steps recited in claim 20. For example, in the context of claim 20, Uchida and Fukuyoshi each fail to teach

forming a color filter over a dielectric film that is formed on a microlens layer. In direct contrast, Uchida and Fukuyoshi teach forming the color filter under the microlens layer, and neither reference provides any suggestion or motivation to form the color filter over a dielectric film that is formed on the microlens layer. Similarly, Abramovich fails to teach heating a patterned microlens material layer to form a layer of microlenses. In direct contrast, Abramovich teaches heating a resist layer into hemispherical-shaped layer that is used to etch an underlying layer to form microlenses from the underlying layer, and fails to provide any suggestion or motivation to heat the underlying layer to form the microlenses as an alternative to employing an etching to arrive at the hemispherical shape.

Accordingly, whether taken separately or together, the references fail to teach the specific sequence recited in claim 20, and it is therefore impossible for any combination of the references to render obvious the subject matter of claim 20. Consequently, the explicit terms of §103 cannot be met with respect to claim 20.

Thus, the Examiner's burden of factually supporting a *prima facie* case of obviousness has clearly not been met with respect to claim 20. Accordingly, Applicant respectfully requests the Examiner withdraw the §103(a) rejection of claim 20.

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Conclusion

It is believed that all matters set forth in the Office Action have been addressed, and that claim 20 is in condition for allowance. Favorable consideration and an early indication of allowability are respectfully requested. Should the Examiner deem that an interview with Applicant's undersigned attorney would expedite consideration, the Examiner is invited to call the undersigned attorney at the telephone number indicated below.

Respectfully submitted,



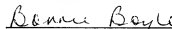
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